

### **REMARKS**

Reconsideration of this application, as amended, is respectfully requested. In the specification, paragraphs [0039], [0082], [0084], and [0085] have been amended to introduce SEQ ID numbers. Claims 68, 70 and 72 have been cancelled. Claims 36, 37, 67, 69 and 71 have been withdrawn. Claims 36, 37 and 67 have been amended to clarify the claimed subject matter. New claims 73-78 have been added. All amendments are made without prejudice or disclaimer. Applicants reserve the right to prosecute any cancelled, non-elected, or otherwise unclaimed subject matter in a subsequently filed continuation, divisional, or other application. These amendments do not add any new matter and are supported by the originally filed application. Consideration and entry of these amendments is respectfully requested.

### **SEQUENCE LISTING**

The Sequence Listing is submitted herewith in paper form. This Sequence Listing is identical to that submitted June 28, 2007. As indicated by the Office Action, an electronic copy is not additionally required. The Sequence Listing includes nucleotide and amino acid sequences that can be found in the application as originally filed. The specification has been previously amended by deleting the originally filed sequence and inserting this sequence listing as shown in US 2008/0138365A1 published June 12, 2008. The undersigned representative hereby declares that the content of the paper and computer readable copies of the Sequence Listing, submitted in the above-identified application in accordance with 37 C.F.R. §§ 1.821(c) and (e), respectively, are identical in content.

### **OBJECTIONS TO THE DRAWINGS**

The drawings stand objected to as missing the SEQ ID NOS. As suggested by the Examiner, the specification has been amended by inserting the SEQ ID NOS. into the Brief Description of the Drawings. Applicants believe this issue has now been properly addressed, and respectfully request that these objections be withdrawn.

### **OBJECTIONS TO THE SPECIFICATION**

The specification stands objected to as missing some SEQ ID NOS. As suggested by the Examiner, the specification has been amended by inserting the SEQ ID NOS. therein. Applicants believe this issue has now been properly addressed, and respectfully request that these objections be withdrawn.

### **REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH**

Claims 36, 37 and 67-72 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants respectfully traverse these rejections as indicated below.

The term “derived from” has been eliminated from the claims. Rejections as to that term are therefore moot.

Regarding the open / closed language issue raised by the Examiner, Applicants maintain that the amended claims refer to specific SEQ ID NOS. Accordingly, Applicants request that these rejections be withdrawn.

Claim 37 has been amended to replace the word “patient” with “host”. The rejection as to the term “patient” are therefore moot.

The term peptide has been changed to “isolated peptide” in each of the claims. Accordingly, Applicants request that these rejections be withdrawn.

### **REJECTIONS UNDER 35 U.S.C. § 102(b)**

Claims 36, 37 and 67-72 stand rejected under 35 U.S.C. § 102(b) as being anticipated by WO 01/47959. Claim 36 has been cancelled; the rejection as to claim 36 is therefore moot. Applicants respectfully traverse the remaining rejections as indicated below.

The Examiner alleged that “[t]he peptide ELMLMQTFKA is the same as Applicants’ SEQ ID NO.:7 except with an additional N-terminal glutamic acid residue.” The Examiner noted that it was unclear “whether Applicants’ claims exclude the presence of any additional amino acid residues....” The peptide of new claim 73 encompasses the peptide of SEQ ID NO.: 7 having the amino acid sequence LMLMQTFKA, not ELMLMQTFKA. The peptide of SEQ ID NO.: 7 is not disclosed by the ‘959 application. Accordingly, it is respectfully requested that the rejection as to SEQ ID NO.:

7 be withdrawn.

Regarding whether the other claimed peptides, compositions and uses thereof are “unobviously different” from the ‘959 disclosure, Applicants provide the following comments. According to the ‘959 specification, the peptides shown in the table bridging pages 24-25 were all tested for immunogenic potential (e.g., whether those peptides could induce an “effective number of peptide specific CTLs above background”). Of those peptides, only QLQSKNMWL, SLSKILDTV, ILIDSGADI, KVMEINREV, AVYSEILSV, ILSVVAKLL are found in Applicants’ Table IV (as SEQ ID NOS. 24, 28, 29, 30, 32 and 34, respectively). None of Applicants’ SEQ ID NOS. 7-9, 11, 12, 21, 37, 38, 40, 49, 51, 54, 57, 59, 61, 63, 67, 70, 72, 74, 77, 78, 81, 84, 85, and 99-104 are disclosed by the ‘959 application and cannot therefore be either anticipated or rendered obvious thereby.

As to Applicants’ SEQ ID NOS. 24, 28, 29, 30, 32 and 34, these were described and tested in the ‘959 application, but only SEQ ID NO. 28 (SLSKILDTV) was deemed therein to be immunogenic. It is noted that SEQ ID NO. 28 is not instantly claimed alone. In stark contrast to the conclusions presented in the ‘959 application, Applicants have shown that all of SEQ ID NOS. 24, 29, 30, 32 and 34 are immunogenic as measured by either or both ELISPOT analysis of human T-cell cultures and / or human T cell cytotoxicity assays (see, e.g., paragraphs [0083-0087]). As set forth at MPEP 2145(X)(D)(4), “proceeding contrary to accepted wisdom in the art is evidence of nonobviousness” (citing *In re Hedges*, 783 F.2d 1038, 228 USPQ 685 (Fed. Cir. 1986)). As the ‘959 application was the “accepted wisdom” prior to Applicants’ disclosure, it respectfully submitted that Applicants proceeded contrary to that wisdom and that the claimed subject matter is not obvious in view of the reference. Applicants claimed peptides, compositions, and methods for using the same have unexpected and surprising properties that the skilled artisan could not have derived from the ‘959 application. Accordingly, Applicants respectfully maintain that the claimed peptides are neither anticipated nor rendered obvious by the ‘959 application. Withdrawal of these rejections is therefore requested.

### CONCLUSIONS

Consideration and entry of this Statement and attachments is respectfully requested. Applicants believe the application is in order and the claims are allowable. As such, it is respectfully requested that a Notice of Allowance be issued as soon as possible. The Examiner is encouraged to contact the undersigned if it is believe doing so would expedite prosecution.

Respectfully submitted,

Date: August 3, 2009



Patrick J. Halloran  
Reg. No. 41,053

Patrick J. Halloran, Ph.D., J.D.  
3141 Muirfield Road  
Center Valley, PA 18034  
Tel: 610-984-4751  
Fax: 484-214-0164  
pat@pathalloran.com